

SUPERINTENDENT OF PUBLIC INSTRUCTION

CHAPTER 13

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## Sub-Chapter 1

## Procedures for Isolation Classification

10.13.101      APPLICATION INFORMATION      (IS HEREBY TRANSFERRED) (History: Sec. 20-3-106, MCA; IMP, Sec. 20-9-302, MCA; ARM Pub. 11/26/77; TRANS, 1990 MAR p. 505, Eff. 3/16/90.)

10.13.102      APPROVAL CRITERIA      (IS HEREBY TRANSFERRED) (History: Sec. 20-3-106, MCA; IMP, Sec. 20-9-302, MCA; ARM Pub. 11/26/77; TRANS, 1990 MAR p. 505, Eff. 3/16/90.)

10.13.103      VARIANCES      (IS HEREBY REPEALED) (History: Sec. 20-3-106, MCA; IMP, Sec. 20-9-302, MCA; ARM Pub. 11/26/77; REP, 1990 MAR p. 505, Eff. 3/16/90.)

Sub-Chapter 2

Opening Middle Schools

10.13.201      APPROVAL CRITERIA      (IS HEREBY TRANSFERRED)  
(History:      Sec. 20-3-106, MCA; IMP, Sec. 20-9-302, MCA; ARM  
Pub. 11/26/77; TRANS, 1990 MAR p. 505, Eff. 3/16/90.)

## Sub-Chapter 3

Program Standards and Course Requirements  
for Traffic Education

10.13.301 THE PROGRAM (IS HEREBY REPEALED) (History: Sec. 20-7-502, MCA; IMP, Sec. 20-7-503, MCA; ARM Pub. 11/26/77, REP, 1989 MAR p. 438, Eff. 4/14/89.)

10.13.302 TEACHER QUALIFICATION (IS HEREBY REPEALED) (History: Sec. 20-7-502, MCA; IMP, Sec. 20-7-503, MCA; ARM Pub. 11/26/77, REP, 1989 MAR p. 438, Eff. 4/14/89.)

10.13.303 APPLICATION AND REIMBURSEMENT PROCEDURES (IS HEREBY REPEALED) (History: Sec. 20-5-702, MCA; IMP, Sec. 20-7-503, MCA; ARM Pub. 11/26/77; REP, 1989 MAR p. 438, Eff. 4/14/89.)

10.13.304 DRIVER EXAMINATION PROCEDURE REQUIREMENTS (IS HEREBY REPEALED) (History: Sec. 20-7-502, MCA; IMP, Sec. 20-7-503, MCA; ARM Pub. 11/26/77; REP, 1989 MAR p. 438, Eff. 4/14/89.)

10.13.305 TRAFFIC EDUCATION VEHICLE REQUIREMENTS (IS HEREBY REPEALED) (History: Sec. 20-7-502, MCA; IMP, Sec. 20-7-503, MCA; ARM Pub. 11/26/77; REP, 1989 MAR p. 438, Eff. 4/14/89.)

10.13.306 STUDENT ENROLLMENT AND LEARNER LICENSE(S) (IS HEREBY REPEALED) (History: Sec. 20-7-502, MCA; IMP, Sec. 20-7-503, MCA; ARM Pub. 11/26/77; REP, 1989 MAR p. 438, Eff. 4/14/89.)

10.13.307 PROGRAM REQUIREMENTS (1) An approved traffic education program for young novice drivers must:

(a) be provided only by school districts operating a junior high school or high school;

(b) be for students who are 15 years old or older, or who will reach their 15th birthday within six months of course completion;

(c) be taught by a teacher(s) of traffic education approved by the superintendent of public instruction;

(d) be based on a curriculum guide, or guides, readily available for review from the superintendent of public instruction or traffic education staff. A student must meet the minimum performance objectives identified by the local school district in order to be considered as having successfully completed the program;

(e) be scheduled so that a sufficient number of courses are provided to allow every eligible student within the school's geographic jurisdiction an equitable opportunity to enroll;

(f) consist of at least 60 hours of structured learning experiences:

(i) scheduled over no less than 20 student contact days;

(ii) beginning September 1, 2002, scheduled over no less than 21 student-contact days;

(iii) beginning September 1, 2003, scheduled over no less than 23 student-contact days;

(iv) beginning September 1, 2004, scheduled over no less than 25 student-contact days; and

(v) including no fewer than six hours of behind-the-wheel, in-traffic driving instruction; and

(vi) effective September 1, 2002, including no fewer than six hours of behind-the-wheel, in-traffic driving instruction scheduled over no less than six student-contact days;

(g) to meet the requirements in (1)(f):

(i) twelve hours of simulation may be substituted for two hours of behind-the-wheel instruction for those schools having traffic simulator equipment approved by the office of public instruction;

(ii) up to 12 of the 60 hours required hereunder may be satisfied by in-vehicle observation of an approved teacher instructing another novice driver;

(h) provide behind-the-wheel instruction only to students who are currently participating in classroom instruction. All traffic education program phases must be conducted using concurrent or integrated scheduling;

(i) use only dual-control vehicles that are equipped according to standards established by the superintendent of public instruction;

(j) have property and liability insurance sufficient to protect the school, teachers, students, the public, the vehicle(s), and its owner;

(k) use the office of public instruction form entitled "School/Dealer Vehicle Use Agreement" (form TE02) or the school's equivalent form when a traffic education loan vehicle is procured from a vehicle dealer; and

(l) complete all reports and documents required by the office of public instruction and the department of justice, motor vehicle division in the time frames required.

(2) Schools wishing to depart from any of the above requirements must submit clear and complete explanation to the traffic education specialist, office of public instruction, along with the school district application forms. Approval of a departure request must be granted before the program begins.

(3) A school's failure to comply with the program requirements outlined herein shall be grounds for the superintendent or public instruction to deny or revoke the approval of the school's traffic education program application.

(4) As used in sub-chapter 3, program standards and course requirements for traffic education, the following definitions apply:

(a) "Concurrent scheduling" means scheduling the traffic education program without an interruption of instruction between classroom instruction and behind-the-wheel instruction;

(b) "Eligible student" means any youth who lives within the geographic boundaries of the public school district whether or not they are enrolled in the public school district and who meets the age requirements of ARM 10.13.312 and has not yet reached 19 years of age on or before September 10 of the school year in which the student participates in traffic education.

(i) For the purposes of this rule, traffic education programs conducted during summer months shall be considered part of the school year immediately preceding the summer months.

(c) "Equitable" means treating all eligible students fairly and without bias in the notification, enrollment, and class administration procedures associated with traffic education;

(d) "Integrated scheduling" means scheduling the traffic education program to include a blend of classroom instruction and associated behind-the-wheel instruction during the duration of the traffic education course. (History: Sec. 20-7-502, MCA; IMP, Sec. 20-7-502, MCA; NEW, 1989 MAR p. 438, Eff. 4/14/89; AMD, 2002 MAR p. 1067, Eff. 4/12/02; AMD, 2003 MAR p. 1627, Eff. 8/1/03.)

10.13.308 APPLICATION PROCEDURES (1) A school district shall apply for and receive approval annually from the superintendent of public instruction in order to provide, and prior to commencing, a young novice driver education program. Public school districts eligible for public funding shall apply and receive approval from the superintendent of public instruction prior to starting a young novice driver education program in order to be eligible for state reimbursement from the state traffic education fund.

(2) To obtain approval for a traffic education program, a school district shall complete and submit to the superintendent of public instruction an "Application for Approval of a Traffic Education Program(s) for Young Novice Drivers" (form TE01). This application form may be obtained from the superintendent of public instruction's traffic education specialist. Following action by the superintendent of public instruction, a copy of the application shall be returned to the school district showing the approval status. All necessary forms and materials shall be forwarded at this time.

(3) The traffic education teacher(s) teaching the program shall have approval issued by the superintendent of public instruction on or before the beginning date of the program in order for the school district to commence a traffic education program for young novice drivers, or for public school districts to be eligible for state reimbursement. (History: Sec. 20-7-502, MCA; IMP, Sec. 20-7-502, MCA; NEW, 1989 MAR p. 438, Eff. 4/14/89; AMD, 2002 MAR p. 1067, Eff. 4/12/02.)

10.13.309 REIMBURSEMENT TO PUBLIC SCHOOL DISTRICTS

(1) The administrative official of the eligible public school district shall submit a "Traffic Education Program Reimbursement Request" (a certified list of pupils who have completed a state-approved traffic education program) on or before July 10 for all students who completed the program during the preceding fiscal year.

(2) Reimbursement per student shall be based on the completion of at least 50% of the classroom portion and 50% of the behind-the-wheel portion of the course, and minimum age requirements. Reimbursement per student shall be paid whether the student passed or failed the course.

(3) On or before August 31 of each year, the superintendent of public instruction shall disburse to the eligible public school districts the amount of traffic education reimbursement money to which they are entitled based on the number of students listed on the reimbursement forms and on the money available for reimbursement in the state traffic education account.



(4) Traffic education reimbursements received by eligible public school districts must be deposited in the district's traffic education fund and shall only be expended for traffic education related expenses.

(5) State reimbursement for traffic education shall not be issued to public school districts that provide traffic education with unapproved teachers or operate a traffic education program not in compliance with Montana statutory and administrative law. (History: Sec. 20-7-502, MCA; IMP, Sec. 20-7-502, 20-7-507, 20-9-510, MCA; NEW, 1989 MAR p. 438, Eff. 4/14/89; AMD, 2002 MAR p. 1067, Eff. 4/12/02.)

10.13.310 TRAFFIC EDUCATION TEACHERS (1) All teachers of traffic education shall have:

- (a) a valid Montana teaching certificate;
- (b) approval as a teacher of traffic education issued by the superintendent of public instruction. Approval to teach traffic education shall be renewed with each renewal of the teacher's teaching certificate;
- (c) a minimum of eight semester or 12 quarter hours of credit course work in traffic safety education. This eight or 12-hour block must include a driver task analysis (classroom instruction) and behind-the-wheel (developing vehicle operational skills) course. For each succeeding renewal of the teacher's teaching certificate, after initial approval, the teacher must accumulate four semester or six quarter hours of qualifying credit course work in traffic safety education, until such time as an endorsable minor, or its equivalent (20 semester or 30 quarter qualifying credits), has been completed;
- (d) a valid driver's license; and
- (e) a local, state and national driving record free from all of the following:
  - (i) more than one moving traffic conviction within any 12 month period of the previous 36 months;
  - (ii) any alcohol related traffic conviction within the preceding 36 months;
  - (iii) any driver's license suspension, cancellation, revocation or denial within the preceding five years;

(iv) any involvement in any fatal traffic accident during the previous five years resulting in:

- (A) a conviction of a crime; or
- (B) the imposition of civil liability;
- (v) a declaration of habitual traffic offender status pursuant to 61-11-201 et. seq, MCA.

(2) For the purposes of this rule, "conviction" includes, but is not limited to, entry of a guilty plea, "per se" convictions, pleas of "no contest" or similar pleas.

(3) If a teacher's approval to teach traffic education has expired and the teacher has not met the renewal requirements of (1)(c), the teacher may request an extension for approval to teach traffic education, subject to the following:

(a) A one-time, one-year emergency extension of approval may be granted for a teacher who received initial approval but who has not been able to complete the required four semester or six quarter traffic education credits for re-approval. The public school district or eligible non-public school shall submit a letter to the office of public instruction stating it has advertised for a traffic education teacher and that no qualified individuals were available to teach. In addition, the teacher for whom the school is seeking an emergency interim approval shall submit to the office of public instruction a plan outlining how the teacher will satisfy the required coursework within the one-year extended period.

(b) A one-time, extenuating circumstance extension of approval may be granted for a period up to two years. The district and teacher shall submit the same documentation required in (2)(a). In addition to the above documentation, the teacher shall submit a statement of a compelling reason why coursework deficiencies cannot be completed within one year, and shall assure the office of public instruction that the teacher will complete the traffic education minor, or its equivalent, within the extension period.

(c) If other traffic education teachers are available to the school district, no emergency or extenuating circumstance extensions shall be granted. Both such extensions are contingent upon the other renewal requirements, including a valid driver's license, an approvable driving record and successful renewal of the teacher's Montana teaching certificate.

(4) A teacher's failure to maintain the requirements for traffic education teacher approval constitutes grounds for the immediate revocation of the approval to teach traffic education. Any revocation of approval may be appealed to the deputy superintendent of public instruction within 30 days of the date of the notice of revocation of approval. The deputy superintendent shall review the revocation and either confirm or reverse the revocation. The deputy superintendent's decision is final. (History: Sec. 20-7-502, MCA; IMP, Sec. 20-7-502, MCA; NEW, 1989 MAR p. 438, Eff. 4/14/89; AMD, 2002 MAR p. 1067, Eff. 4/12/02.)

10.13.311 TRAFFIC EDUCATION VEHICLES (1) Vehicles used for the behind-the-wheel driving phase of traffic education may be procured through a loan, lease, or purchase arrangement. Regardless of the method, it is essential that a sufficient number of vehicles be available for instructional use.

(2) Each traffic education vehicle must be equipped, maintained, repaired, identified, insured, stored, and used according to the following:

(a) Required equipment:

- (i) dual-control brake capable of bringing the vehicle to a complete emergency stop;
- (ii) all current federal motor vehicle safety standards (FMVSS);
- (iii) two exterior mirrors and a teacher's rearview mirror;
- (iv) first aid kit with contents appropriate for possible minor injuries sustained during instruction;
- (v) flares or reflector warning devices;
- (vi) periodically inspected and operable fire extinguisher located in the passenger compartment;
- (vii) accident report forms; and
- (viii) operable safety belts for each occupant. All occupants shall utilize a safety belt at any time the vehicle is in motion.

(b) Recommended equipment:

- (i) power steering and power brakes;
- (ii) split or bucket type front seat;
- (iii) four-door sedan;
- (iv) air conditioning;
- (v) tow cable;
- (vi) shovel, ax and bucket;
- (vii) flashlight;
- (viii) rear window defogger; and
- (ix) ignition cut-off switch.

(c) The vehicles assigned for use in the traffic education program shall be kept in a safe operating condition. Maintenance and repair practices shall be in conformance with manufacturer's recommendations and with the policy established by the school district and participating dealer. Vehicles shall be given a periodic safety inspection by a knowledgeable person. The periodic inspection shall be conducted a minimum of once a year and prior to the annual commencement of behind-the-wheel instruction. The district shall maintain and make available for review by the office of public instruction, or its designee, a record of the safety inspections, which include:

- (i) the date of the inspection;
- (ii) items inspected;
- (iii) condition of items inspected; and
- (iv) repairs made.

(d) All vehicles used in the traffic education program are to be identified by either an overhead sign, a rear sign, or both. When the rear sign is used, it must not be so large as to obstruct a driver's rear vision. Decals provided by the dealers are used only in conjunction with one or both types of signs.

(e) Vehicles provided by dealers on a loan basis shall be used for traffic education purposes only unless the dealer(s) gives written authorization to use the vehicle(s) for other purposes.

(f) "Exempt" license plates shall be obtained for a traffic education vehicle owned by, or provided to the district by a dealer. "Dealer" license plates are not to be used on these vehicles. Responsibility for securing exempt license plates rests with the school district. The school must obtain the appropriate application from the county treasurer. In the space provided for registered owner, type the name and telephone number of the school district and the name of the dealer providing the vehicle.

(g) Each practice-driving vehicle (including motorcycles) must be covered by an amount of insurance that meets or exceeds minimum requirements of local and state financial responsibility statutes.

(h) A common method for procuring practice driving vehicles is a school/dealer use agreement between the school or school district and a cooperative automobile dealer or dealer group. Each school district must use the form entitled "School/Dealer Vehicle Use Agreement" (TE02) or its equivalent. This agreement form is self-explanatory and can be obtained by writing to Traffic Education Programs, Office of Public Instruction, P.O. Box 202501, Helena, MT 59620-2501.

(i) If several dealers express a desire to provide practice-driving vehicles on a loan basis, the school district should either accept an equal number of vehicles from each dealer or should apply an annual rotation plan worked out with the dealer group or the local vehicle dealers association.

(j) Vehicles assigned for use in the traffic education program must be readily available for this use. Use of vehicles for other purposes must not conflict with the traffic education instructional program. If a traffic education vehicle is being used for purposes other than driving instruction, all identification as a traffic education vehicle must be removed. (History: Sec. 20-7-502, MCA; IMP, Sec. 20-7-502, MCA; NEW, 1989 MAR p. 438, Eff. 4/14/89; AMD, 2002 MAR p. 1067, Eff. 4/12/02.)

10.13.312 STUDENT ENROLLMENT (1) The trustees of any district operating a public junior high school or high school may establish and maintain a traffic education course for eligible students within the district's geographic jurisdiction, provided that students enrolled in the course will have reached their 15th birthday within six months of course completion. The district shall not be reimbursed for students completing the course at a younger age. (History: Sec. 20-7-502, MCA; IMP, Sec. 20-7-502, MCA; NEW, 1989 MAR p. 438, Eff. 4/14/89; AMD, 2002 MAR p. 1067, Eff. 4/12/02; AMD, 2003 MAR p. 1627, Eff. 8/1/03.)

10.13.313 LEARNER LICENSE (1) All students enrolled in the traffic education program and receiving behind-the-wheel instruction shall have in their immediate possession a valid Montana traffic education permit, a valid Montana traffic education learner license, a valid Montana instruction permit or a valid Montana driver license as prescribed in Title 61, chapter 5 of the Montana Code Annotated (MCA).

(a) A traffic education permit (TEP, also known as a restricted instruction permit or RIP) is authorized and prescribed in 61-5-106, MCA. It is valid from the date of issue until course completion as indicated by the expiration date, provided an approved traffic education teacher accompanies the student while driving. These permits are issued to the school district by the local driver examiner when presented official office of public instruction approval for the current year. These permits shall not be given to the student, but shall be kept by the traffic education teacher and carried with the teacher in the car when the student is receiving behind-the-wheel instruction.

(b) A traffic education learner license (TELL) is authorized and prescribed in 61-5-106(2) MCA. It allows a student to practice driving only with a licensed parent or guardian or a qualified traffic education teacher. It does not allow the student to practice driving with any other licensed driver. This license can only be obtained while the student is successfully participating in, or has successfully completed, a state-approved traffic education program.

(2) A TELL may be obtained:

(a) through the local driver license exam office of the motor vehicle division of the department of justice, provided:

(i) the respective school district personnel authorizes the student to apply for the license by placing his/her name on the "Student List" form (TE04) and transmits the student list, along with the "Certification" form (TE03) signed by the appropriate school district personnel to the local driver license exam office;

(ii) the student has paid the necessary fee and obtained the driver license receipt and application form.

(iii) the student presents the completed, notarized application and receipts for payment of the permit with proof of identity, certified birth certificate, proof of residency, and social security number to the examiner. The permit is valid for six months from the date of receipt.

(iv) the student is at least 14 1/2 years of age.

(v) the student is successfully participating in or has successfully completed a state-approved traffic education program.

(vi) the student successfully completes all parts of the driver license examination other than the driving test; or

(b) through a public school district participating in the cooperative driver testing program (CDTP) provided:

(i) the student is at least 14 1/2 years of age and is enrolled in an approved traffic education program participating in the CDTP;

(ii) the student presents to the CDTP school district the completed, notarized application with proof of identity, certified birth certificate, proof of residency, and social security number;

(iii) the student successfully completes an eye exam and written knowledge test through the CDTF school district as authorized by the department of justice, motor vehicle division. The permit is valid for six months from the date of successful completion of the written exam; and

(iv) the respective CDTF school district personnel places the student's name on the "Student List" form (TE04) with an indication of a waiver for the knowledge test, and transmits student list, along with the "Certification" form (TE03) signed by the appropriate school district personnel to the local driver license exam office within three days of issuance of the TELL to the student. (History: Sec. 20-7-502, MCA; IMP, Sec. 20-7-502, MCA; NEW, 1989 MAR p. 438, Eff. 4/14/89; AMD, 2002 MAR p. 1067, Eff. 4/12/02.)

10.13.314 COOPERATIVE DRIVER TESTING PROGRAM (1) The department of justice may authorize public school districts conducting a traffic education program approved by the superintendent of public instruction to administer to the district's traffic education students required standardized knowledge and road tests and to certify the test results to the department of justice, provided that:

(a) the school district completes, signs, and submits an "Intent to Participate" affidavit to the motor vehicle division of the department of justice;

(b) each of the school district's teachers who teach all or part of the district's traffic education curriculum:

(i) is approved under this chapter as a traffic education teacher;

(ii) has attended and successfully completed a cooperative driver testing program training class conducted by the department of justice; and

(iii) has completed, signed, and submitted an "Instructor Compliance Affidavit"; and

(c) the school district and its traffic education teachers administer the program as outlined in the cooperative driver testing program plan prepared by the department of justice, motor vehicle division.

(2) The school district's cooperative driver testing program shall be subject to review by the department of justice. The department of justice may terminate the district's authorization to participate as a cooperative driver testing school district or a teacher's cooperative driver testing program credentials if the department of justice's review indicates habitual, intentional or negligent non-compliance by agents of the school district and/or the traffic education teacher. (History: Sec. 20-7-502, MCA; IMP, Sec. 61-5-110, MCA; NEW, 2002 MAR p. 1067, Eff. 4/12/02.)